

Amendment No. 1 to SB3576

Beavers  
Signature of Sponsor

**AMEND Senate Bill No. 3576\***

**House Bill No. 3789**

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-101(1), is amended by deleting the language "Assist the governor in finding and appointing the best qualified persons" and by substituting instead the following:

Assist the governor and the general assembly in appointing and confirming the best qualified persons

SECTION 2. Effective July 1, 2012, Tennessee Code Annotated, Sections 17-4-102, through 17-4-108 inclusive, are amended by deleting the language "judicial nominating commission" and by substituting instead the following:

judicial rating commission

SECTION 3. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-109, is amended by deleting the section in its entirety and by substituting instead the following:

(a) If a vacancy occurs during the term of office of a judge of the supreme court, court of appeals or court of criminal appeals by death, resignation or otherwise, then the governor shall fill the vacancy by appointing an attorney who is duly licensed to practice law in this state, who is fully qualified under the constitution and statutes of this state, and whose appointment complies with applicable constitutional or statutory provisions requiring equitable allocation of judges of the affected court among the state's three grand divisions. Upon making such appointment, the governor shall promptly notify the judicial rating commission, the speaker of the senate and the speaker of the house of

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representatives regarding the appointment and appointee's suitability and qualifications for filling the vacancy.

(b) Within thirty (30) calendar days following such notification, the judicial rating commission shall review and evaluate the suitability and qualifications of the appointee, shall assign a rating to the appointee of "highly qualified" or "qualified" or "unqualified" and shall certify such rating to the speaker of the senate and the speaker of the house of representatives. All hearings, interviews, meetings and deliberations of the commission shall be conducted publicly and shall comply with title 8, chapter 44, part 1; provided, however, when assigning a rating to an appointee, members shall vote anonymously by written ballots, but the ballots shall be collected, announced and tallied at the meeting by the presiding officer. By rule, the judicial rating commission shall prescribe uniform guidelines and procedures for the commission's review, evaluation and rating of appointees.

(c) A person who has been defeated in any election held under this chapter is not eligible for appointment to the office for which the person was defeated until after one (1) regular August election has occurred.

SECTION 4. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-110, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Each gubernatorial appointment made pursuant to § 17-4-109(a) shall be subject to confirmation by resolution of the senate and by resolution of the house of representatives. By roll call vote, the senate resolution must be adopted by a majority of all of the members to which the senate is constitutionally

entitled, and the house resolution must be adopted by a majority of all of the members to which the house of representatives is constitutionally entitled. Not more than one (1) gubernatorial appointment shall be the subject of any senate resolution of confirmation or any house resolution of confirmation.

(b)

(1) Except as otherwise provided in subdivision (b)(2) of this section, to become effective an appointment made pursuant to § 17-4-109(a), while the general assembly is convened in organizational or regular session, must be confirmed within sixty (60) calendar days following receipt of notification pursuant to § 17-4-109(a); provided, however, if either the senate or the house of representatives fails to take final action on its confirmation resolution within the sixty-day period, then the appointment shall be deemed to be confirmed.

(2) An appointment made pursuant to § 17-4-109(a), during the interim between regular sessions of the general assembly or made within the seven-day period immediately preceding final adjournment of a regular session, shall become effective immediately but must be confirmed within sixty (60) calendar days following the convening date of the next organizational or regular session in order to remain effective; provided, however, if either the senate or the house of representatives fails to take final action on its confirmation resolution within the sixty-day period, then the appointment shall be deemed to be confirmed.

(c) If the general assembly rejects an appointment, then the governor shall appoint another person, subject to confirmation in accordance with subsection (b).

(d) If a judge of the supreme court or of an intermediate appellate court is confirmed more than thirty (30) days prior to the date of a biennial August election for a term to begin the following September 1, then such judge shall

stand for retention election by the qualified voters of the state at the biennial August election and, if such judge receives a majority of votes cast in favor of retention, shall begin the term September 1. If a judge is confirmed thirty (30) days or less prior to the date of a biennial August election, then such judge shall begin the term September 1 and shall stand for retention election at the next biennial August election.

(e) If a judge fails to receive a majority of votes cast in favor of retention, then such seat shall be vacated.

(f) The filling of a vacancy for judge of the supreme court or of an intermediate appellate court shall occur in the manner prescribed in subsections (a)-(e). Such judge shall begin the term of office upon confirmation and shall serve the remainder of the unexpired term, except that if a biennial August election occurs more than thirty (30) days after the vacancy has occurred and more than a year prior to the expiration of the term, then such judge shall stand for retention election at such biennial August election. A judge shall not be subject to more than one retention election per term.

(g) Except as otherwise provided in subsection (f), the term of service of each judge of the supreme court and of any intermediate appellate court is eight years. The governor may reappoint a judge to serve another term after completion of a full or unexpired term, but the reappointed judge shall be subject to confirmation and retention election as provided in subsections (a)-(e).

SECTION 5. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-111, is amended by deleting the section in its entirety.

SECTION 6. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-112, is amended by deleting the section in its entirety and by substituting instead the following:

The governor shall direct the Tennessee bureau of investigation or other appropriate agencies to perform appropriate financial and criminal background

investigations and inquiries of prospective appointees, and the governor shall review and assess the results of the background investigations and inquiries.

SECTION 7. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-113, is amended by deleting the section in its entirety.

SECTION 8. Effective July 1, 2012, Tennessee Code Annotated, Sections 17-4-114(c), 17-4-115(c), 17-4-116(a) and 17-4-116(c), are amended by deleting the language "§ 17-4-112 or § 17-4-113;" and by substituting instead the following:

§ 17-4-109 and § 17-4-110;

SECTION 9. Effective July 1, 2012, Tennessee Code Annotated, Section § 17-4-114(d)(2), § 17-4-115(d)(2) and § 17-4-116(c)(2), are amended by deleting the following language:

The governor shall fill the vacancy in the office in accordance with § 17-4-112 or § 17-4-113: however, at the next regular August general election, this office shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. In accordance with § 2-13-203, each political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election. After the office is filled by contested election under this subdivision (d)(2), the provisions of this chapter concerning the evaluation and retention process shall again apply to the office.

and by substituting instead the following:

The vacancy shall be filled in accordance with § 17-4-109 and § 17-4-110.

SECTION 10. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-117, is amended by deleting the language "judicial nominating commission" and by substituting instead the following:

judicial rating commission

SECTION 11. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-118, is amended by deleting the section in its entirety and by substituting instead the following:

(a) When a vacancy occurs in the office of a state trial court judge by death, resignation or otherwise, the governor shall fill the vacancy by appointing an attorney, who is duly licensed to practice law in this state and who is fully qualified under the constitution and statutes of this state, to fill the vacancy and discharge the duties of office.

(b) The term of a judge appointed under this section shall expire on August 31 after the next August election recurring more than thirty (30) days after the vacancy occurs.

(c) At the next regular August election recurring more than thirty (30) days after the vacancy occurs, the qualified voters of the district shall elect a candidate to fill the remainder of the unexpired term or a complete term, as provided in the general election law in title 2.

SECTION 12. Effective July 1, 2012, Tennessee Code Annotated, Section 17-4-201(a)(2), is amended by deleting the following language:

, the judge's application to the judicial nominating commission

SECTION 13. Effective September 1, 2015, Tennessee Code Annotated, Section 17-1-103, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Each judge of a circuit, chancery, criminal, or other state trial court of record shall be elected to a full eight-year term of office by the qualified voters of the judicial district or circuit, to which the judge is to be assigned, in an election held at the regular August election in 2014 and at the regular August election occurring every eight (8) years thereafter.

(b) Each judge of the supreme court or other state appellate court shall be elected to a full eight-year term of office by the qualified voters of the entire state in an election held at the regular August election in 2014 and at the regular August election occurring every eight (8) years thereafter.

(c) Each election for the office of judge of a circuit, chancery, criminal, or other state trial court of record, and the office of judge of the supreme court or of a state appellate court, shall be conducted in accordance with general election law set forth in title 2; provided, that in accordance with § 2-13-203, each political party may nominate a candidate for election to the office of the supreme court or a state appellate court; and in accordance with § 2-5-101, independent candidates may also qualify for each office.

SECTION 14. Effective September 1, 2015, Tennessee Code Annotated, Section 17-1-301, is amended by deleting the section in its entirety and by substituting instead the following:

(a) If a vacancy occurs during the term of office of any judge of a circuit, chancery, criminal, or other state trial court of record because of death, resignation, removal or other reason, then the remainder of the unexpired term shall be filled by the qualified voters of the judicial district or circuit in a contested election held at the next regular August election occurring more than thirty (30) days after the vacancy occurs. In the meantime, the governor shall appoint an attorney, who is duly licensed to practice law in this state and who is fully qualified under the constitution and statutes of this state, to fill the vacancy and discharge the duties of office until August 31 following the election.

(b) If a vacancy occurs during the term of office of a judge of the court of appeals, court of criminal appeals, or supreme court because of death, resignation, removal or other reason, then the vacancy shall be filled by the qualified voters of the entire state, at the next regular election in August, occurring more than thirty (30) days after the vacancy. In the meantime, the governor shall fill the vacancy by appointing an attorney who is duly licensed to practice law in this state, who is fully qualified under the constitution and statutes of this state, and whose appointment complies with applicable constitutional or

statutory provisions requiring equitable allocation of judges of the affected court among the state's three grand divisions.

SECTION 15. Effective September 1, 2015, Tennessee Code Annotated, Title 17, Chapter 4, is amended by deleting the chapter in its entirety.

SECTION 16. This act shall take effect upon becoming a law, the public welfare requiring it; provided, however, if the voters at the November 2014 general election amend Article VI, Section 3 of the Tennessee Constitution, then Sections 13, 14, and 15 of this act are hereby repealed upon certification of the election results.